

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6912

BILL NUMBER: HB 1370

NOTE PREPARED: Jan 13, 2012

BILL AMENDED:

SUBJECT: Medicinal Marijuana.

FIRST AUTHOR: Rep. Knollman

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☐ **FEDERAL**

IMPACT: State and Local

Summary of Legislation: *Regulation of Medicinal Marijuana:* This bill requires the executive board of the Indiana State Department of Health (ISDH) to adopt rules to regulate registered medicinal marijuana cardholders, medicinal marijuana dispensaries, and registered medicinal marijuana dispensary employees.

Exemption of Criminal Penalties: The bill provides that marijuana crimes do not apply in certain circumstances to medicinal marijuana cardholders, medicinal marijuana dispensaries, and registered medicinal marijuana dispensary employees.

It also makes a technical correction.

Effective Date: July 1, 2012.

Explanation of State Expenditures: The fiscal impact of the bill is indeterminate. Marijuana is federally classified as a Schedule I controlled drug with no medically indicated uses. Federal actions may impact implementation outcomes of the bill.

Regulation of Medicinal Marijuana: The ISDH is required to promulgate reasonable regulations to allow for: (1) the registration and issuance of medicinal marijuana cards for persons with debilitating medical conditions; (2) medicinal marijuana dispensaries; and (3) medicinal marijuana dispensary employees.

Registered Medicinal Marijuana Cardholders: The ISDH is required to take applications and issue medicinal marijuana cards to certain persons with debilitating medical conditions. The bill defines the term “debilitating medical condition” and allows the ISDH to add diseases, conditions, or symptoms to the

definition by way of its rule-making authority. The bill requires an application for a medicinal marijuana card be accompanied by a physician's statement that the person suffers from a debilitating medical condition. The bill specifies that a registered cardholder may not be prosecuted for possession of marijuana, hash oil, or hashish that was purchased from a licensed medical marijuana dispensary. The number of persons that would ultimately be eligible to apply for a medical marijuana card and that would subsequently seek to register with the ISDH would depend on administrative actions. The bill is silent with regard to residency of applicants and the ISDH ability to charge an application fee. The fiscal impact would depend on administrative actions.

Medical Marijuana Dispensaries: The bill requires the ISDH to license and regulate medical marijuana dispensaries and the employees of licensed dispensaries under rules to be adopted by the ISDH. The bill does not provide guidance with regard to the source of the marijuana, cultivation, and to the number of dispensaries, location, or qualifications or restrictions on employees. The bill is also silent with regard to the ISDH ability to charge an application or licensing fee for dispensaries and/or employees. The fiscal impact would depend on administrative actions.

Exemption of Criminal Penalties: The bill would exempt medicinal marijuana cardholders, medicinal marijuana dispensaries, and registered medicinal marijuana dispensary employees from criminal statutes relating to possession, dealing, and dealing in paraphernalia related to marijuana, hash oil, hashish, salvia, or synthetic cannabinoids. Notwithstanding federal law, state expense for incarceration of offenders may be decreased to the extent that arrests, convictions, and incarcerations might decrease as a result of this provision.

Background Information: The Colorado Department of Public Health and Environment (CDPHE) operates the confidential state registry of medical marijuana users. Colorado requires medical marijuana users to be registered. As of October 31, 2011, the state had processed 159,559 new patient applications since the registry began operations in July 2001. There are currently 88,872 valid registered Colorado ID card holders.

Fee revenue only is used to support the medical marijuana registry. No General Fund monies are appropriated. The state CDPHE originally charged a nonrefundable application fee of \$110 to cover the cost of the registration program only; the fee was reduced to \$90 in 2007; and effective January 1, 2012, the fee was reduced to \$35. Colorado also allows waivers of the fee for persons with income below 185% of the federal poverty level. If all valid registered cardholders pay the \$35 application fee every two years, the ongoing operating revenue of the registry would be estimated to be \$1.5 M.

Beginning in 2010, the Colorado Department of Revenue (CDOR) started operating the program that regulates and licenses the supply chain for medical marijuana from growers, processors, and manufacturers through dispensaries. The program also provides for licensure of employees of licensed entities. The program is intended to be totally funded by fees. The fee schedule includes state administrative and legal fees, administrative service fees, application fees for employees, and business license fees. With the implementation of the regulations in 2010, the CDOR took in \$8.2 M in application fees in the first 3 days the regulations were in effect. In the initial round of licensure applications, 809 retail centers, 309 infused-product manufacturers, and 1,219 cultivation applications were received. (A cultivation license also requires a retail license or a manufacturer's license.) Colorado has one full-time, investigative employee for every 10 licenses issued. The CDOR would also have revenue associated with a schedule of citation violations and penalties that may be assessed against licensed entities.

Explanation of State Revenues: *Fee Revenue:* See *Explanation of State Expenditures* for the discussion of

potential fee revenues.

Sales Tax Revenues: The bill is silent with regard to the treatment of sales taxes related to the sale of medical marijuana.

Exemption of Criminal Penalties: Notwithstanding federal law, state revenues for fees and fines related to the court actions concerning alleged offenders may be decreased to the extent that arrests, prosecutions, and convictions, might decrease as a result of this provision.

Background Information: Colorado has been collecting sales tax on the sale of medical marijuana since the Attorney General issued an opinion on November 16, 2009, that the product was subject to sales tax. Reports indicate the state collected approximately \$5 M in state sales tax on the sale of medical marijuana products in 2011. Local sales taxes in Denver alone resulted in collections of approximately \$2.2 M.

Explanation of Local Expenditures: Local law enforcement may have increased workloads relating to enforcement activities for licensed entities, especially if local ordinances would be allowed. The extent to which this would occur would be indeterminate and depending on administrative actions.

Exemption of Criminal Penalties: Notwithstanding federal law, local expense for arrests, prosecutions, incarceration, and parole of offenders may be decreased to the extent that arrests, convictions, and incarcerations might decrease as a result of this provision.

Explanation of Local Revenues: *Local Licensing Fees:* The bill is silent with regard to the ability of local units of government to choose to participate in a medical marijuana program. Revenue collections would depend on the degree to which local governmental units may locally license or regulate such activities. The level of income is indeterminate, depending on state and local administrative actions.

Exemption of Criminal Penalties: Notwithstanding federal law, local revenues for fees and fines related to the court actions concerning alleged offenders may be decreased to the extent that arrests, prosecutions, and convictions, might decrease as a result of this provision.

State Agencies Affected: ISDH; Courts.

Local Agencies Affected: Local law enforcement and trial courts.

Information Sources: www.Colorado.gov/revenue;
www.cdph.state.co.us/hs/medical_marijuana/statistics.html

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